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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,148	09/04/2003	Clifford A. Wright	788105-1	9013

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EXAMINER

D ADAMO, STEPHEN D

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/655,148

Applicant(s)

WRIGHT, CLIFFORD A. *E*

Examiner

Stephen D'Adamo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11, 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 recites, "...a distal portion of a riser that travels along a rectilinear path of travel" (line 2). Since the riser travel along a rectilinear path, it is suggested to remove the terminology "of travel" for clarification.

Claims 14 and 15 are confusing and unclear. Specifically, the claims positively recite "desired position" for three distinct movements. It is suggested to distinguish between the different "desired" positions using distinct terminology, such as, "first", "second", and "third".

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Zarkhin et al. (5,713,591).

Zarkhin discloses a multi-positioning arm support comprising an elongated riser means 11 mounted slidably within base securing means 10 and having armrest means 2 attached thereto. The armrest can be moved within an area bounded by a cone approximating 15 degrees, which is between about 0 degrees and 180 degrees. Note, the cone boundary includes a three dimensional movement with tilting, turning, and rotating. The armrest 2 is supported from below to place an arm in a plurality of desired positions relative to the supporting surface.

Regarding claims 9-11, the armrest rotates and turns about a ball unit, seen in Figure 2 at a distal end of riser 11. The control knob includes cap screws 12a and 12b for securing or clamping the armrest in a fixed position. The riser also travels along a rectilinear path to raise and lower the armrest, via mounting slide or base securing means 10.

In regards to claim 13, the base securing means 10 attaches to a supporting surface. The base securing means 10 is a clamp for riser 11. Therefore, the base securing means is an elevation control since a clamp can be adjustably tightened. The universal lock down attachment means includes the ball clamp the distal end of riser 11 for establishing a desired position. A slider means or armrest 2 is supported from below by the universal lock down attachment means or ball clamp for supporting an extremity from below into a desired position.

Regarding claims 14 and 15, an armrest 2 is mounted to a swivel base 12c and 12d with ball clamp on the distal end of riser 11. The armrest can be moved within an area bounded by a cone approximating 15 degrees, which is between about 0 degrees and 180 degrees. Note, the cone boundary includes a three

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dimensional movement with tilting, turning, and rotating. The desired positions can be locked with cap screws 12a and 12b

In regards to claim 16, a base unit 8, 9 and 10 has a clamping arrangement 8a to help secure the base unit to a stationary surface. A housing 12c and 12d are mounted to an armrest platform 2 and has a swivel unit mounted therein with the ball clamp at the distal end of riser 11. The ball clamp has a split ball arrangement that facilitates rotational, turning, and tilting movements. The riser is mounted within the base unit 8, 9 and 10.

Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Aaras et al. (4,277,102).

Aaras discloses a chair comprising an elongated riser 6, an armrest 3 and two universal joints 8 and 9. "The armrests may be adjusted sideways, forwards/backwards, up/down, and even tilted in any desired direction" (col.2, lines 65-67). The armrest is supported from below by a universal joint 8 to place the arm in a plurality of desired positions. Moreover, the universal joint includes a stationary ball 22 and 27, a moveable ball 25 and locking arrangement including a nut 29 and shaft 21. The universal joint 8 turns about a ball unit and has a control knob 30 for securing the armrest in a plurality of desired positions. Further, universal joint 8 is mounted at a distal end portion of riser 6. Riser 6 travels along a rectilinear path that can raise and lower the armrest for further adjustments. The riser is secured for rectilinear travel with one control lever 30 at joint 9.

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In regards to claim 13, the base 10 has securing means for attachment to a supporting surface under the bottom cushion. The base has elevation control means at universal joint 9 for engaging a riser 6 and for locking the riser at a desired extension length. The universal joint 8 is located at a distal portion of the riser for establishing a desired position. The slider means 26 on moveable ball 25 is supported from below by the universal joint for supporting from below an extremity.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zarkhin (5,713,591) in view of Bergsten et al. (5,281,001).

Zarkhin discloses a multi-positioning arm support comprising an armrest 2 supported from below by a universal adjustment arrangement including a clamp ball at a distal end of riser 11 and a housing unit 12c and 12d. The universal adjustment arrangement allows the armrest to be placed in a plurality of desired positions relative to the supporting surface. The ball clamp has a control knob or cap screw 12a and 12b for securing the armrest in a fixed position. The riser 11 is capable of traveling along a rectilinear path to raise and lower the armrest via clamping base 10. However, Zarkhin discloses, in Figure 2, a clamping screw for securing the riser in a raised or lowered position. Zarkhin fails to expressly

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disclose a single control lever. Yet, Bergsten teaches of ergonomic arm support including a riser 14 and a base securing means 11, both similar in construction and application to Zarkhin's riser 11 and securing base 10. Bergsten further teaches, "the standard [riser] 14 is vertically adjustable in the base 11 by tightening or loosening the handle [lever] 46 to pinch or disengage the standard 14 from the aperture 61" (col.4, lines 63-65). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the clamping screws of Zarkhin with a clamping lever, as taught by Bergsten, for a quicker and easier method of tightening the riser or standard in an elevated position.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zarkhin (5,713,591) in view of Seils (1,706,634).

Zarkhin discloses a multi-positioning arm support comprising a base unit 8, 9 and 10 including a clamping arrangement 8a to help secure the base unit to a stationary surface. Further, a housing 12c and 12d is mounted to an armrest platform 2 and has a swivel unit mounted therein with the ball clamp at the distal end of riser 11. The ball clamp has a split ball arrangement that facilitates rotational, turning, and tilting movements. The riser is mounted within the base unit 8, 9 and 10. However, Zarkhin fails to expressly disclose a split ball arrangement including a stationary ball, a moveable ball and a locking arrangement. Seils teaches of an armrest device including a stationary ball forming an open socket 12, a moveable ball 13 and a locking arrangement with coiled spring 16 that secures the moveable ball in a fixed stationary position

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relative to the stationary ball forming an open socket 12. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the split ball arrangement of Zarkhin with a stationary ball, a moveable ball and a securing means, as taught by Seils, for providing a quicker and easier method of moving and locking the armrest in a different desired position.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aaras et al. (4,277,102) in view of Bergsten et al. (5,281,001).

Aaras discloses a chair comprising a housing unit 8 mounted to an armrest platform 3 and having a swivel unit including a split ball arrangement. "The armrests may be adjusted sideways, forwards/backwards, up/down, and even tilted in any desired direction" (col.2, lines 65-67). The housing unit comprises a universal joint including a stationary ball 22 and 27, a moveable ball 25 and locking arrangement including a nut 29, shaft 21 and lever 30. the elongated riser 6 is mounted to a base unit and has a distal end portion mounted within the universal joint 8. However, Aaras fails to expressly disclose a base unit having a clamping arrangement to secure the base to a stationary surface. The base unit is part of the chair body. Yet, Bergsten teaches of ergonomic arm support including a riser 14 and a base securing means 11. Bergsten further teaches, "the standard [riser] 14 is vertically adjustable in the base 11 by tightening or loosening the handle [lever] 46 to pinch or disengage the standard 14 from the aperture 61" (col.4, lines 63-65). Moreover, the base unit 11 includes a "U-shaped steel or aluminum clamp 30" (col.4, line 28). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the clamping



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arrangement of Aaras with a clamp 30 and base unit 11, as taught by Bergsten, for providing a universal connection so the armrest could be connected to a seat body, like in Aaras or a desk 23, as taught by Bergsten.

### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ko et al. (6,619,747), De Miranda (6,619,598), Nakamura et al. (5,927,815), Aldrich (5,462,247), Bonutti (5,407,249), Twisselmann (5,029,941), Wood (4,913,393), Baitella (3,910,538) and Adamsson (D377,125) all show various features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 6:00-3:30, 2nd Friday 6:00-2:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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